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The information submitted states that X was incorporated under the laws of State and elected to be an S corporation effective D1. Pursuant to an agreement dated D2, X transferred m shares of X stock to A, a corporation wholly owned by B who is represented as being an eligible S corporation shareholder. A is not an eligible

shareholder of an S corporation under 1361(b)(1)(B). Neither X or X's shareholders were aware that the transfer of stock to A would cause X's S corporation election to be terminated. On D3, X learned that its S corporation election terminated as a result of the transfer of X stock to A, an ineligible S corporation shareholder.

X represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and not motivated by tax avoidance. X further represents that X has filed returns consistent with X's status as an S corporation. X and its shareholders have agreed to make adjustments (consistent with the treatment of X as an S corporation) as required by the Secretary.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which it was made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents, or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such ineffectiveness or termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that X's S corporation election terminated on D2 because A was not an eligible shareholder of X. We also conclude that this termination of X's S election on D2 was an inadvertent termination within the meaning of § 1362(f).

Therefore, we conclude that X will continue to be treated as an S corporation for the period from D2 provided that X's S corporation election was valid and was not otherwise terminated under § 1362(d). This ruling is conditioned on A transferring its X stock to B within 90 days of the ruling. This ruling is also conditioned on X, A and B filing within 90 days of this ruling any initial or amended returns for Year as necessary to treat B as the owner of the X stock originally owned by A.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed regarding X's eligibility to be an S corporation or the validity of its S corporation election.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 2
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes